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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 UNITED STATES OF AMERICA,

11 Plaintiff,

Case No. 3:73-cv-00018

12 v.

ORDER

13 ORR WATER DITCH CO., *et al.*,

14 Defendants.

15 In Re: Nevada State Engineer Ruling
16 No. 5747

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18 Respondent Grand Slam Enterprises, LLC, moved pursuant to Fed. R. Civ. Pro. 12
19 for the dismissal (#12) of the Pyramid Lake Paiute Tribe's Petition for Judicial Review of
20 Nevada State Engineer Ruling #5747. The Tribe opposed the motion (#18).

21 Grand Slam argues that the Tribe neither protested nor made an appearance in
22 Grand Slam's Application No. 66729, one of many applications decided by the State
23 Engineer in Ruling #5747. The Tribe concedes that it neither appeared nor protested
24 Grand Slam's Application. The Tribe argues, however, that it is *aggrieved* by the State
25 Engineer's ruling, and thus has standing to appeal. See Nev. Rev. Stat. §533.450(1) ("any
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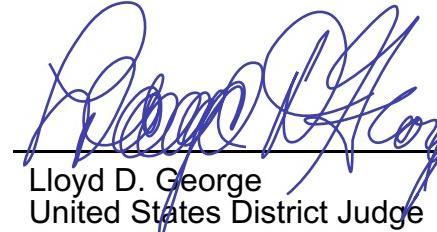
1 person feeling himself aggrieved by any order or decision of the State Engineer . . .
2 affecting his interest . . . may have the same reviewed by a proceeding for that purpose."

3 The Tribe's failure to appear, protest, object, or otherwise participate in Grand
4 Slam's Application precludes them from now asserting, to this reviewing court, that they are
5 aggrieved by the decision of the State Engineer. The Court considers the Tribe's failure to
6 appear, protest, object, or otherwise participate in the Application as constituting the Tribe's
7 consent to the State Engineer's decision regarding that Application and will not entertain
8 any arguments to the contrary.

9 Accordingly, for good cause shown,

10 **THE COURT ORDERS** that Grand Slam Enterprises, LLC's Motion to Dismiss (#12)
11 is GRANTED as follows: The Pyramid Lake Paiute Tribe's Petition for Judicial Review of
12 Ruling #5747 is DISMISSED to the extent it seeks review of the State Engineer's Ruling
13 regarding Grand Slam Enterprises, LLC's Application No. 66729.

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15 DATED this 31 day of August, 2010.
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Lloyd D. George
United States District Judge